



IRA A. JACKSON  
COMMISSIONER

# *The Commonwealth of Massachusetts*

*Department of Revenue*

*Lowell Saltonstall Building,*

*100 Cambridge Street, Boston 02204*

August 22, 1983

You represent a retired school teacher who intends to roll over a lump sum distribution that she will receive in 1983 from a tax-sheltered annuity contract ("TSA") into an individual retirement account ("IRA"). You request a ruling concerning the Massachusetts income tax consequences of this transaction.

If an employee of a public school system (as defined in I.R.C. § 170(b)(1)(A)(ii)) or of an organization exempt from tax under Internal Revenue Code ("Code") Section 501(c)(3) receives a qualifying distribution from an annuity contract purchased by his employer and the employee transfers the distribution to an individual retirement plan or to certain annuity contracts within 60 days of receipt, then such distribution (to the extent transferred) is not includible in federal gross income for the taxable year in which paid. (I.R.C. § 403(b)(8)). The term "qualifying distribution" means a lump sum distribution from an annuity contract described in Code Section 403(b)(1). (I.R.C. § 403(b)(8)(B)).

Massachusetts gross income is federal gross income as defined under the Internal Revenue Code as amended on February 1, 1983, with certain modifications. (G.L. c. 62, §§ 1(c), 2(a). Code Section 403(b) excludes from the federal gross income of an employee of a public school system or an organization exempt from tax under Code Section 501(c)(3) contributions by the employer toward the purchase of a TSA.

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Contributions to a TSA excluded from federal gross income under Code Section 403(b) which are made pursuant to a salary reduction agreement and which are not required under a retirement program of the employer are includible in the employee's Massachusetts gross income in the years the contributions are made. (G.L. c. 62, § 2(a)(1)(D)).

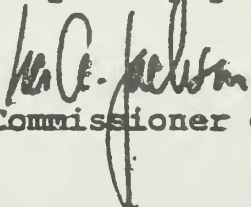
Income from a TSA or from an individual retirement plan is deductible from federal gross income in the determination of Massachusetts gross income until the aggregate amount deducted equals the aggregate amount previously included in Massachusetts gross income. (G.L. c. 62, § 2(a)(2)(F)).

Based upon the foregoing, it is ruled that:

(1) The rollover by a retired school teacher of a lump sum distribution that she will receive in 1983 from a TSA into an IRA is not includible in her Massachusetts gross income for the taxable year in which the distribution is paid, provided the distribution is excluded from her federal gross income.

(2) Distributions from the IRA are deductible from her federal gross income in the determination of Massachusetts gross income until the aggregate amount deducted equals the aggregate amount previously included in her Massachusetts gross income. Distributions from her IRA in excess of the amount previously included in her Massachusetts gross income are subject to Massachusetts income taxation.

Very truly yours,

  
Commissioner of Revenue

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